

Attorney General in which he decided that this was unconstitutional or that he thought it might be, and believe me, that is his only authority is an opinion, but in that, he told the Department of Education I don't think that is a proper appropriation. However, obviously, you should process those forms like all others and do you know where they were processed. They stayed right in the file where they were.

SENATOR F. LEWIS: Senator Murphy, your time is up. Time has expired. Senator Duis.

SENATOR DUIS: Mr. President and members of the Legislature, and Senator Murphy, Senator Murphy, you noticed that I passed when it came to the vote of putting this out on the floor of the Legislature. First off, I would like to have you know that I have been in a similar position as most everyone else. I had a few years ago probably what I thought was the answer to equalization between counties, and I to this day think the same thing, but the Attorney General's opinion stated differently and was not put into force and, believe it or not, to my amazement it did go to the Supreme Court and was declared unconstitutional. I'd received assurance from the State Tax Commissioner that he would assist in making the small part of this that was unconstitutional constitutional so we would have a good statute. But Senator Murphy, the thing that bothers me about this situation, and sincerely believe me that I sympathize with your thought, and that is I don't know whether we can put the executive part of this state government into the position that we are attempting to do here legislatively, where he would implement a statute where upon the advice of his Attorney General he should not and then he become responsible for the repayment or the situation that was created by not heeding the advice of his attorney. Now I would like to do what you are doing but I am wondering if we probably shouldn't do this in a different manner and that is require that upon the noncompliance with the statute that they go immediately to a court for a, and I can't tell you what it is, probably Senator Chambers or Senator Luedtke, if you are listening to me, Senator Luedtke, get a declaratory judgment or a restraining order or something like that until it can be processed. Because if my memory in the time I am here, I believe the Governor is bonded and he is also responsible for the acts and, Senator Murphy, I do sincerely want you to know that I sympathize. I want to do the same thing you do but I am wondering if we don't need to do it in a little bit different fashion and I am not here on the floor of the Legislature to oppose you, only to the extent of, would you consider the situation on the basis of giving them some way of getting a declaratory judgment or holding in abeyance this without the invasion of the executive department of state government by our legislative department which is unconstitutional and I don't know whether this legislative bill is constitutional or not but I certainly would question whether or not we can do it this way. And again I say, Senator Murphy, I sympathize with you but I do have those doubts in my mind and I would like to have these cleared up but I think we can do it but I do think that we should have some way in here so that he could go directly to a court for a declaratory judgment or for a stop order or whatever they might call it. I